

House Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 13

HOUSE BILL 2443

AN ACT

AMENDING SECTION 33-405, ARIZONA REVISED STATUTES; RELATING TO CONVEYANCES
AND DEEDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-405, Arizona Revised Statutes, is amended to
3 read:

4 33-405. Beneficiary deeds; recording; definitions

5 A. A deed that conveys an interest in real property, including any
6 debt secured by a lien on real property, to a grantee beneficiary designated
7 by the owner and that expressly states that the deed is effective on the
8 death of the owner transfers the interest to the designated grantee
9 beneficiary effective on the death of the owner subject to all conveyances,
10 assignments, contracts, mortgages, deeds of trust, liens, security pledges
11 and other encumbrances made by the owner or to which the owner was subject
12 during the owner's lifetime.

13 B. A beneficiary deed may designate multiple grantees who take title
14 as joint tenants with right of survivorship, tenants in common, a husband and
15 wife as community property or as community property with right of
16 survivorship, or any other tenancy that is valid under the laws of this
17 state.

18 C. A beneficiary deed may designate a successor grantee beneficiary.
19 If the beneficiary deed designates a successor grantee beneficiary, the deed
20 shall state the condition on which the interest of the successor grantee
21 beneficiary would vest.

22 D. If real property is owned as joint tenants with the right of
23 survivorship or as community property with the right of survivorship, a deed
24 that conveys an interest in the real property to a grantee beneficiary
25 designated by all of the then surviving owners and that expressly states that
26 the deed is effective on the death of the last surviving owner transfers the
27 interest to the designated grantee beneficiary effective on the death of the
28 last surviving owner. If a beneficiary deed is executed by fewer than all of
29 the owners of real property owned as joint tenants with right of survivorship
30 or community property with right of survivorship, the beneficiary deed is
31 valid if the last surviving owner is one of the persons who executes the
32 beneficiary deed. If the last surviving owner did not execute the
33 beneficiary deed, the transfer shall lapse and the deed is void. An estate
34 in joint tenancy with right of survivorship or community property with right
35 of survivorship is not affected by the execution of a beneficiary deed that
36 is executed by fewer than all of the owners of the real property, and the
37 rights of a surviving joint tenant with right of survivorship or a surviving
38 spouse in community property with right of survivorship shall prevail over a
39 grantee beneficiary named in a beneficiary deed.

40 E. A beneficiary deed is valid only if the deed is executed and
41 recorded as provided by law in the office of the county recorder of the
42 county in which the property is located before the death of the owner or the
43 last surviving owner. A beneficiary deed may be used to transfer an interest
44 in real property to the trustee of a trust even if the trust is revocable.

1 F. A beneficiary deed may be revoked at any time by the owner or, if
2 there is more than one owner, by any of the owners who executed the
3 beneficiary deed. To be effective, the revocation must be executed and
4 recorded as provided by law in the office of the county recorder of the
5 county in which the real property is located before the death of the owner
6 who executes the revocation. If the real property is owned as joint tenants
7 with right of survivorship or community property with right of survivorship
8 and if the revocation is not executed by all the owners, the revocation is
9 not effective unless executed by the last surviving owner.

10 G. If an owner executes and records more than one beneficiary deed
11 concerning the same real property, the last beneficiary deed that is recorded
12 before the owner's death is the effective beneficiary deed.

13 H. This section does not prohibit other methods of conveying property
14 that are permitted by law and that have the effect of postponing enjoyment of
15 an interest in real property until the death of the owner. This section does
16 not invalidate any deed otherwise effective by law to convey title to the
17 interests and estates provided in the deed that is not recorded until after
18 the death of the owner.

19 I. The signature, consent or agreement of or notice to a grantee
20 beneficiary of a beneficiary deed is not required for any purpose during the
21 lifetime of the owner.

22 J. A beneficiary deed that is executed, acknowledged and recorded in
23 accordance with this section is not revoked by the provisions of a will.

24 K. A beneficiary deed is sufficient if it complies with other
25 applicable laws and if it is in substantially the following form:

26 Beneficiary Deed

27 I (we) _____ (owner) hereby convey to
28 _____ (grantee beneficiary) effective on
29 my (our) death the following described real property:

30 (Legal description)

31 IF A GRANTEE BENEFICIARY PREDECEASES THE OWNER, THE
32 CONVEYANCE TO THAT GRANTEE BENEFICIARY SHALL EITHER (CHOOSE
33 ONE):

34 ☐ BECOME NULL AND VOID.

35 ☐ BECOME PART OF THE ESTATE OF THE GRANTEE BENEFICIARY.

36 _____
37 (Signature of grantor(s))

38 (acknowledgment).

39 L. The instrument of revocation shall be sufficient if it complies
40 with other applicable laws and is in substantially the following form:

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Revocation of Beneficiary Deed

The undersigned hereby revokes the beneficiary deed
recorded on _____ (date), in docket or book _____
at page _____, or instrument number _____, records of
_____ county, Arizona.

Dated: _____

Signature

(acknowledgment).

M. For the purposes of this section:

1. "Beneficiary deed" means a deed authorized under this section.

2. "Owner" means any person who executes a beneficiary deed as
provided in this section.

APPROVED BY THE GOVERNOR MARCH 24, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 24, 2006.